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10 Attorneys for Plaintiff and Counterdefendant  
The Continental Insurance Company

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

15 THE CONTINENTAL INSURANCE  
COMPANY,

Case No.: C-08-2052-SC

Related to Case No:  
07-CV-05926-SC  
07-CV-06045-SC  
07-CV-05800-SC  
08-CV-02268-SC

Plaintiff,

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VS.

18 JOHN JOSEPH COTA; REGAL STONE  
19 LIMITED; FLEET MANAGEMENT LTD.;  
20 and the M/V COSCO BUSAN, LR/IMO Ship  
No. 9231743 her engines, apparel, electronics,  
tackle, boats, appurtenances, etc., *in rem*,

**THE CONTINENTAL INSURANCE  
COMPANY'S NOTICE OF DISMISSAL  
OF COMPLAINT AS TO DEFENDANT  
JOHN JOSEPH COTA (ONLY),  
WITHOUT PREJUDICE**

22 Defendants

**(FRCP 41(a)(1)(A)(i) – No Court Order Required)**

24 | AND RELATED CROSS-ACTIONS

## **NOTICE OF DISMISSAL**

WHEREAS, defendant John Joseph Cota (“Cota”) has invoked and declined to waive the arbitration clause in the insurance contract between plaintiff The Continental Insurance Company (“Continental”) and Cota;

WHEREAS, Continental acknowledges Cota's right to arbitration of at least one of the causes of action asserted by Continental against Cota in Continental's First Amended Complaint;

WHEREAS, Cota has not served an answer to Continental's original Complaint nor to  
Continental's First Amended Complaint;

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1           Continental hereby dismisses its First Amended Complaint as against Cota and only  
 2 Cota. This dismissal is without prejudice.

3           This dismissal does not extend to any other defendant or to any cause of action against  
 4 any other defendant. Specifically, this dismissal does not extend to Regal Stone, Ltd., Fleet  
 5 Management, Ltd., or the *M/V Cosco Busan*.

6           This dismissal of Cota is filed on behalf of Continental only and concerns only to  
 7 Continental's complaint and Cota's status as a defendant thereto. Cota is also named as a cross-  
 8 defendant to several cross-claims filed by his co-defendant Regal Stone. Continental does not  
 9 purport to be dismissing Cota as a cross-defendant to Regal Stone's cross-claims.

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DATED: August 15, 2008

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BULLIVANT HOUSER BAILEY PC

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By \_\_\_\_\_

Samuel H. Ruby  
 Kevin K. Ho

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Attorneys for Plaintiff and Counterdefendant  
 The Continental Insurance Company

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